

LEGISLATIVE BUSINESS.

THE TRAVANCORE AGRICULTURISTS' RELIEF

BILL—(contd).

Clause 3.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, last evening I was dealing with the nature and position of Conciliation Boards in other places in India. A large volume of criticism against my amendment was based on the position supposed to exist in other Provinces of India and in some Native States. I would say at once that our scheme of conciliation is much more ambitious than the schemes formulated anywhere in India. Both the debtors and creditors have of course to be brought together for conciliation. The number of persons that have thus to be brought would be much larger here and I may also add that the scope of our conciliation is also much larger both in regard to quality and quantity of debts. In regard to the quantity of debts to be brought under conciliation, a minimum as well as a maximum are very often fixed elsewhere. For example in the Central Provinces sums below Rs. 150 would not be conciliated. In Madras no amount below Rs. 100 would be conciliated. This is one side of the matter. In some other places a maximum is fixed. In Punjab it is Rs. 10,000 and in the Central Provinces it is Rs. 25,000, and amounts above these will not be conciliated. Thus a limitation exists as to the volume of the debts that will come in for conciliation.

MR. S. J. NAIR (*Nedumangad*): Then may I know why is it such a limitation was not fixed so far as our legislation goes? May I know whether anybody objected to it?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That question does not arise. The fact is there and nobody has objected to it till now. We must take the Bill as it is. It provides for conciliation of all debts, be the amount Re. 1 or Rs. 10 or Rs. 10,000 or even lakhs. There is no limit as regards the volume of debt to be brought under conciliation. This comprehensive scale of operation has not been tried elsewhere in India.

Again in regard to the quality also of the debts there is difference. We are bringing within its scope all kinds of debts. Trade debts, debts due to co-operative societies, rent debts, etc.—all these come within the ambit of conciliation. These are not allowed elsewhere in India. Thus then, it must be noted, that practically all kinds of monetary transactions are to be brought in for conciliation. That necessarily involves a large volume of work. We cannot now say where we would stand.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): May I know from the Law Member, if this Bill is more beneficent to the agricultural population than other legislations of similar kind in British India, why he is denying it to some persons?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): For the hundredth time let me say that I am not denying

the benefit to any agriculturist. I am only saying that we have to be very cautious and that therefore there may be some delay in bringing the benefit to some.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Then may I know—

PRESIDENT: The honourable members must remember that this is not question time.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Does not the member think that the delay in giving relief is tantamount to denial?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, Sir. I will never admit that, because that is not a fact. Sir, I was saying that the volume of the work that would go before the Board under our scheme is unlimited. Those responsible for this Bill believe that the Bill would prove to the benefit of the agriculturist in general and they do not want to curtail its scope as by limiting the volume of the debt that may be allowed to go before the Board. In regard to the nature of the debts too, we are not excluding any kind of debts such as trade debts or rent or debts due to co-operative societies. Practically therefore every kind of debt and that to any amount can be brought before the Board. Again if you look at the definition of the term 'agriculturists' you will find that it includes practically everybody. If you look at similar enactments in other places you will find that that it is not so. There are considerable limitations as to who alone would be an agriculturist. Again there is what may be called a money-lending class or sowcar class in other places, who form the bulk of the creditors. Here you can hardly find a limited class as the money-lending class except in one or two places. Yesterday some honourable member said here that about 20 lakhs of people in Travancore are debtors. I should add that if so there would be 20 lakhs of creditors also. The example of Bhavnagar was quoted.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I ask whether it has been found by the A. D. R. Committee that 50 per cent of the total debt in Travancore is owned by the creditors?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It may be. But it cannot be said that when we are trying to conciliate debts this fifty per cent. can be excluded. The House itself and those responsible for the Bill did not try to exclude any debts. If you exclude debts, say below Rs. 150, or above, say Rs. 5,000, there will be a large exclusion.

MR. S. J. NAIR (*Nedumangad*): May I know whether at the time of making the rules it will not be possible to limit the amount?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not know. However, I will bear in mind the member's suggestions if necessary.

Sir, the fact remains that there is no limitation under our scheme in regard to volume of the debts that could be conciliated. In regard to the number of creditors too it is much larger here than elsewhere, there being no particular class of people here as the money-lending

[Mr. Kayalam Paramesvaran Pillai.]

class. I was referring to Bhavnagar which was cited very often in this House. There, the agricultural debt has been reduced, it was stated, by about 25 per cent. or so. The number of people dealt with there was very limited. If you could get hold of some 25 or 30 creditors there and their books, you would have got practically all transactions and you can easily deal with these 25 or 30 or say even 100 persons. The total debt here may amount to some 30 crores and the debtors and creditors will number about 20 lakhs of people each, though of course the debtor may be a creditor also, so that the number and the nature of debts and debtors and creditors will be much larger here. That is why I say that we are trying an experiment, an ambitious experiment. I do not want to dilate on this. I will just quote the words of the Dewan—I think it is permissible for me to do so—given in reply to a Deputation that recently waited on him on this Bill. He said :

"I was struck by certain features of the Bill which in my opinion is more comprehensive than any other that I have seen—I have studied the Punjab Legislation, the Central Provinces Legislation and the Madras Legislation—I think it would be correct to say that this Bill is wider in scope than any legislation that I have studied".

It is rather embarrassing to compliment or evaluate the Dewan who is presiding just now. But may I not say, that in him you have a very eminent lawyer, a far seeing statesman and a shrewd economist, and that there is none more competent than he to.

PRESIDENT : Order, order. I think the honourable member's observation is not relevant.

MR. SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*) : I wish to put one question. With reference to the passage read by the Law Member I am asking this question. Does the Dewan say that the relief shall not be given to any set of people?

PRESIDENT : It is not permissible for the honourable member to interrogate the Dewan indirectly in this manner (*Laughter*).

MR. SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*) : A word of personal explanation, Sir.

PRESIDENT : It is not necessary. The President does not need any personal explanation on a matter which concerns the Dewan. The Law Member will now proceed.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, I was trying to explain that our scheme is much more ambitious and comprehensive than those inaugurated elsewhere, and let us hope that by the grace of God we will succeed.

Having regard to the magnitude of this experiment, the House will I dare say expect the Government to proceed cautiously and step by step.

Now in regard to the nature of the proposals contained in this Bill, I may perhaps refer also to the opinion of the High Court which was given very recently, which has been placed in the library of the House.

PRESIDENT : Has the honourable member placed the opinion of the High Court on the table of the House?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is being placed. The High Court say:

"The definition of the term 'agriculturists' in the Bill is far too wide so as to take in practically most of the non-agriculturist debtors of the State. The definition of the term 'debt' is also equally wide so as to include commercial debts, debts incurred for marriages, house-building, or for extravagance and speculation, incurred by agriculturists for non-agricultural purposes".

PRESIDENT : Order, order. The general principle is that when members representing any departments of Government refer to documents, they should have been placed on the table of the House for some time before the reference is made in order to enable the members of the House to have an idea of the contents of these documents. I make an exception in this case. Hereafter the members representing departments of Government will take note of this fact.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, it will thus be seen that our scheme is much more ambitious and comprehensive than that elsewhere and therefore the work that will fall to the Board here will be much larger in volume and extent. It is but right that this House should allow Government to proceed cautiously and step by step.

I said that the scope of debt conciliation in the Central Provinces is limited. Yet what is it that was done there? In spite of limitations there, they appointed but two boards at the outset and added six more after some time. Honourable members may see it from the Agricultural Debt Redemption Committee's report, page 88, which says:

"The Central Provinces Debt Conciliation Act was passed in 1933 and, so far, eight Debt Conciliation Boards have been established under the Act. The work began with two Boards only in areas where indebtedness was very heavy and the chances of settlement favourable".

In Madras, the Boards have not yet been established. The law was passed some time ago; but they have only just now published the draft rules. The author of the Bill that became the law made a criticism of this tardiness, at the seventh annual conference of the Primary Land Mortgage Banks held recently in Madras. He complained that the Government did not yet bring the Boards into operation. The Honourable Sir Geoffray Bracken, the Madras Finance Member, who opened the conference replied that that was due to the fact that Government had to proceed cautiously and without creating any alarm to the creditor classes. It may be interesting to the House to hear what the Honourable Finance Member said. I shall read it:

"There remains the Debt Conciliation Bill for which your President is mainly responsible. A beginning will shortly be made with Debt Conciliation Board. Now, however desirable the scaling down of debts may be, I must sound a

[Mr. Kayalam Paramesvaran Pillai.]

note of caution. It is an extraordinary remedy devised to meet the extraordinary situation created by the world wide economic depression and it has its disadvantages and dangers. I have already alluded to the danger of destroying the delicate fabric of credit. That this danger is real can be illustrated by the experience of some of the Loans Officers now engaged in scaling down debts as a preliminary to the grant of loans. Though the arrangements made between creditors and debtors are purely voluntary, it has been reported that some debtors are reluctant to come forward to get their debts scaled down, because they fear that their creditors who generally speaking have treated them fairly will hesitate, if debts are once scaled down, to make any further advances. Evidently the rural population is more alive to the realities of the situation than some of our doctrinaire socialists. If such is the case with the voluntary scaling down of debts, I leave it to you to consider what will happen if an element of compulsion is introduced. It is for this reason that Government have to be cautious in framing rules for Debt Conciliation Boards. Actually the Special Loans Officers have been doing debt conciliation work by scaling down debts before granting loans. The experience gained will be valuable in framing rules, but, as you know, the time most of the Loans Officers have been engaged in the work has been short. This explains the delay in bringing the Debt Conciliation Act into operation."

Sir, the fear alluded to is a natural fear felt by the creditor as well as by the debtor. At the same time I must say that Government are convinced that the debtors do stand in need of relief and we cannot allow any feelings of alarm to stand in the way of the relief being given. We must therefore proceed cautiously and make conciliation to scale down the debts without creating any alarm in the minds of the creditors. That is why I say, let us go step by step. I may mention that, so far as I have been able to ascertain, there is no place in India where Conciliation Boards have been set up to function throughout the Province or State. Mysore was quoted yesterday. So far as I have been able to ascertain, only certain portions of the State are under conciliation. That is the case in other places too. It will be a dangerous proceeding if all at once we bring the whole of Travancore within the jurisdiction of the Conciliation Boards. Let us start with a few Boards and then extend.

Once again, let me repeat that my object is not to *deny* the benefit of conciliation to anybody. Government only want permission to extend it gradually. To accept the present provision in the Bill will result in starting all the Boards together simultaneously and throughout the State or, in the alternative, in not starting any board at all. As the Bill stands, Government are not bound to establish *any* Boards. Starting any Board is left to the discretion of Government. But Government do want to establish boards and try them; they cannot however establish many Boards and that throughout the State. Will the House give reasonable facilities to Government to establish some Boards to start with and then extend? Or, rather would the House see that the Government do not start any Boards at all? That is the question. The amendment was then put and carried.

MR. A. THANU PILLAI (Trivandrum-Rural): I demand a poll. A poll was taken and the House divided as follows:—

AYES.—40.

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| 1 Mr. N. Abdur Rahiman Sahib | 22 Mr. M. K. Madhavan Pillai |
| 2 „ C. V. Chandrasekharan | 23 „ K. Mahomed |
| 3 „ S. Chattannatha Karayalar | 24 „ P. C. Narayanan Bhatta- |
| 4 „ P. Chidambaram Pillai | tiripad |
| 5 „ Antony George | 25 „ Pacode A. Narayana Pillai |
| 6 „ K. George | 26 Srimati T. Narayani Amma |
| 7 „ M. Govinda Pillai | 27 Mr. G. Nilakantan |
| 8 „ M. Mahomed Hancef | 28 „ K. Padmanabhan |
| 9 „ M. K. Janardana Kam- | 29 Rao Sahib Mahakavi S. Para- |
| math | mesvara Aiyar |
| 10 „ T. S. Jayantan Nampootiri | 30 Mr. Kayalam Paramesvaran |
| 11 „ T. C. Joseph | Pillai |
| 12 „ K. C. Karunakaran | 31 „ R. Pitchu Aiyangar |
| 13 „ N. Kesava Panickar | 32 „ V. Ramakrishna Panicker |
| 14 „ T. T. Kesavan Sastri | 33 „ R. Raman Pillai |
| 15 „ K. P. Krishna Menon | 34 Rao Bahadur A. Rengaswami |
| 16 „ E. V. Krishna Pillai | Aiyar |
| 17 Rao Bahadur Rajyasevanirata | 35 Mr. R. Sambasiva Aiyar |
| Dr. N. Kunjan Pillai | 36 „ James Simpson |
| 18 Mr. K. Kunjukrishna Pillai | 37 „ M. Sivathanu Pillai |
| 19 „ P. C. Kuriyan | 38 „ A. Thanu Pillai |
| 20 „ K. Madhavan | 39 „ John Whitely Tolson |
| 21 „ K. Madhava Kurup | 40 „ G. B. E. Truscott |

NOES—22.

- | | |
|-------------------------------------|-------------------------------|
| 1 Mr. K. C. Abraham | 13 Mr. T. Krishna Pillai |
| 2 „ A. Achyutan | 14 „ K. A. Narayana Pillai |
| 3 „ T. K. Alexander | 15 „ Edavanatt S. Padmanabha |
| 4 „ A. S. Damodaran Asan | Menon |
| 5 „ A. Easwara Pillai (<i>Kal-</i> | 16 „ Kainikkara M. Padmanabha |
| <i>kulam II</i>) | Pillai |
| 6 „ A. Easwara Pillai (<i>Kot-</i> | 17 „ R. Sivaraman Nair |
| <i>tarakara</i>) | 18 „ P. K. Thomas |
| 7 „ K. R. Elenkath | 19 „ N. E. Varughese |
| 8 „ S. J. Nair | 20 „ V. K. Velappan Nair |
| 9 „ T. C. Joseph | 21 „ T. P. Velayudhan Pillai |
| 10 „ K. M. Krishnan | 22 Sadasya Tilaka T. K. Velu |
| 11 „ N. K. Krishna Pillai | Pillai |
| 12 „ Puthupalli S. Krishna | |
| Pillai | |

NEUTRALS—7

- | | |
|-------------------------------|-----------------------------|
| 1 Mr. V. T. Chacko | 5 Mr. S. Nilakanta Pillai |
| 2 „ Pottayil S. Krishna Pani- | 6 „ Changanacherry K. Para- |
| cker | mesvaran Pillai |
| 3 „ E. K. Kunjuraman | 7 „ S. Tiraviam Nadar |
| 4 „ K. M. Kuriakose | |

The amendment was carried.

Clause 4.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 4, sub-clause (2), line 1, for the word "make" substitute the word "made".

It is intended to correct a clerical error.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 4, sub-clause (4), line 1, for the word "sub-clause" substitute the word "sub-section" in both the places where the word occurs.

That is also more or less a verbal alteration.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

Clause 15.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 15, in the proviso to sub-clause (1), line 1, for the words "any reduction shall", substitute the words "shall any reduction".

That is also only a verbal amendment.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 15, in the proviso to sub-clause (1), line 2, after the word "date", insert the words "of the commencement".

That is also a verbal correction, for purpose of uniformity.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

Clause 16.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 16, sub-clause (3) for the numbering "(8)", substitute numbering "(3)".

It is intended to correct a clerical mistake.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

Clause 17.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 17, sub-clause (3), for the numbering "(9)", substitute the numbering "(3)".

This also is to correct a clerical error.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

Clause 19.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): With your permission, Sir, I beg to move an amendment to Clause 19.

In line 8, substitute the word "or" for the word "on" occurring after the words "or order".

This is also intended to correct a clerical error.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The amendment was put to vote and carried.

Clause 20.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move the following amendment:—

In Clause 20, number the existing Clause as sub-clause (1), and add the following as sub-clause (2), namely:—

"(2) Notwithstanding anything in sub-section (1), the application shall be deemed to have been dismissed if within the prescribed period the application has not been disposed of by the Board".

Although my amendment to Clause 3, has been carried, I may frankly tell the House that it is the desire of the Government to establish as many Conciliation Boards as possible. But such a course may very likely result in the Boards in not being able to dispose of their work very expeditiously. And the result of such delay will be that Court proceedings in respect of money claims will stop indefinitely. Such an eventuality is undesirable as it is against public policy. It will also injure credit transactions in the State. There are people in Travancore who have got money to lend. It is desirable to see that they do not become reluctant to lend their moneys, and they will become reluctant if Courts are at a standstill.

There are two ways of preventing the Court proceedings being stayed indefinitely by reason of the pendency of conciliation proceedings. One is to lay down that the proceedings in Courts shall not be stayed at all, or, if they are to be stayed, they may be stayed only for a limited period. The other alternative is to lay down that the cases before the Board shall be deemed to have been dismissed if they are not actually disposed of within a prescribed period.

[Mr. Kayalam Paramesvaran Pillai.]

During the second reading of this Bill, when Clause 28 was under debate Mr. Damodaran Asan suggested that it would be desirable to amend Clause 20 to the effect that applications for conciliations before the Board shall be deemed to have been dismissed if they are not actually disposed of within a specified period. With a view to ascertain whether the House would be prepared to accept that suggestion, and in order to give the House an opportunity to express its opinion on the suggestion of Mr. Asan, I am placing this amendment before the House. I have given notice of an amendment to Clause 28 also.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*) : I second it.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*) : I oppose this amendment. There seems to be other amendments also.

PRESIDENT: I have received notices of the following amendments:—

By MR. R. SIVARAMAN NAIR :

"In amendment No. 8 to Clause 20 for the words occurring after 'sub section (1)' substitute 'all applications pending on the file of the Board on the date of its dissolution shall be deemed to be dismissed on such date.'"

In amendment No. 9 to Clause 28 for "for the prescribed period" substitute "till the dissolution of the Board."

In amendment No. 11 to Clause 36 omit the words "and in existence on such date."

In amendment No. 12 to Clause 38 after the word "treated" insert the following viz., "for the purpose of this Regulation."

By MR. A. S. DAMODARAN ASAN :

In line 4 between the words "dismissed" and "if" insert the words "for purposes of Clause 26" and add at the end as a separate paragraph :

"Provided that this sub-section shall not apply for a period of three months after the prescribed date where the Conciliation Officer, for reasons to be recorded in writing, orders that an extension of the prescribed period is necessary in the general interests of the parties before him."

In line 5 of Clause 38 between the words "date" and "as", insert the words "for purpose of fixing the annual pattern for such period."

By MR. PUTHUPALLI S. KRISHNA PILLAI :

In line 4 delete the words "prescribed period," and substitute "period of twelve months from the date of the presentation of the application under Section 4."

Under Standing Order No. 43, notice of six clear days has to be given in regard to these amendments. Of these amendments, those by Mr. Sivaraman Nair were received on the 12th; Mr. Asan's amendments were received on the 16th; and Mr. Puthupalli Krishna Pillai's was received only at 11-15 this morning. I shall take up these amendments and put them, one after another, to the House to see whether there is any member objecting to it on the ground of want of notice.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : I would submit one point for the consideration of the Chair. These are amendments to amendments. At the third reading of Bills we are entitled to bring forward amendments only to the amendments brought forward by the Government. Under the Standing Orders, even for the amendments to

be brought forward by the Government at the third reading, the prescribed notice is only six clear days. It is therefore not possible for us who have to propose amendments to amendments of which we get only six days' notice, to give notice of our amendments. Therefore the Standing Order referred to by the Chair applies only to the original amendments themselves and not to the amendments to those amendments.

PRESIDENT : Is it the honourable member's contention that the Standing Order 46 does not apply at this stage? The Standing Order 46 is:—

".....No amendments other than those connected with the amendments moved on behalf of Government shall, without the special permission of the Dewan, be brought up for the consideration at this stage."

MR. A. S. DAMODARAN ASAN (Mavelikara) : So amendments connected with the amendment moved by the Government can be moved without the special permission of the Dewan.

".....No amendments other than those connected with the amendments moved on behalf of Government shall, without the special permission of the Dewan, be brought up for consideration at this stage."

PRESIDENT : I think the honourable member is right. I allow the amendment to be moved.

MR. KAYALAM PARAMESVARAN PILLAI (Additional Head Sirkar Vakil) : Sir, with regard to Mr. Sivaraman Nayar's amendment I have got an objection. It is really a negative of the Clause.

PRESIDENT : Let him move it.

MR. R. SIVARAMAN NAIR (Tiruvalla II) : I move that —

"In amendment No. 8. to Clause 20 for the words occurring after sub-section (1) substitute "all applications pending on the file of the Board on the date of its dissolution shall be deemed to be dismissed on such date."

MR. KAYALAM PARAMESVARAN PILLAI (Additional Head Sirkar Vakil) : That is really a negative of the Clause and not any amendment at all.

PRESIDENT : Does the honourable member Mr. Sivaraman Nair wish to say anything on that matter?

MR. R. SIVARAMAN NAIR (Tiruvalla II) : The Law Member's amendment says that all applications pending after a prescribed period shall be dismissed. My amendment is connected with that.

PRESIDENT : In substance it negatives the Clause. Therefore I hold that it is not admissible.

MR. A. S. DAMODARAN ASAN (Mavelikara) : Sir, I move that —

In line 4 between the words "dismissed" and "if" insert the words "for purpose of Clause 28" and add at the end as a separate paragraph:

"Provided that this sub-section shall not apply for a period of three months after the prescribed date where the Conciliation Officer, for reasons to be recorded in writing, orders that an extension of the prescribed period is necessary in the general interests of the parties before him."

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[Mr. A. S. Damodaran Asan.]

I shall briefly explain the object of my amendment. The Law Member has said that his object in bringing forward this amendment is to see that the proceedings before the Civil Courts are not indefinitely held up owing to the pendency of the proceedings before a Conciliation Officer. Proceedings before a Civil Court are held up under the provisions of Clause 28 of the Bill. Under Clause 28, the proceedings have to be suspended unless for special reasons to be recorded in writing, the Court feels that such suspension is not desirable. The only ground that has been brought forward by the Law Member in support of his amendment is that the proceedings should not be suspended. If the amendment of the Law Member as now brought forward is accepted the application will be dismissed for all purposes. That is to say, even if conciliation proceedings have advanced to a fairly successful stage and some more time is required during which the conciliation could be effected, automatically at the close of the prescribed period the application has to be deemed to be dismissed. That means that the work of the Conciliation Officer for such a long time, the expectations raised in the parties, and the suspension of the proceedings by the Civil Courts will all be useless, because on a particular date the conciliation proceedings have not been completed. So, I am suggesting in the first part of my amendment that the dismissal must be only for purposes of Clause 28, *i. e.*, only as far as the suspension of the proceedings of the Civil Courts is concerned.

MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know whether it is the suggestion of the member that proceedings may go on simultaneously before the Board and the Court on the same matter?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I think that there is no serious objection in having proceedings before a Civil Court with regard to a debt that is being sought to be conciliated by a Conciliation Board, because proceedings in the two places are entirely different. Proceedings before a Conciliation Officer are to be fruitful only if there is agreement between the parties and the agreement is arrived at on principles of equity as well.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): Will not the admission made in the Board by parties affect the decision by the Civil Court?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I do not think so. What are the admissions made by the parties? I do not fully grasp the question.

PRESIDENT: If the honourable member does not understand the question he need not answer it.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): To explain my question, suppose a party admits the existence of a debt in the Conciliation Board which he is not under any obligation to admit before a Civil Court. In such circumstances will it not affect the decision of the Civil Court?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): If there is a real debt that is due and it is admitted before a Conciliation Officer, I do not think that any party will deny the existence of such a debt before the Civil Court?

PRESIDENT: The honourable member may resume his argument.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I was answering Mr. Thanu Pillai's question and submitting that there is no serious objection with regard to continuing the proceedings before the Conciliation Officer even though there is an application before the Civil Court.

The second part of my amendment is brought forward with this object. Proceedings before a Civil Court are suspended under Section 28 owing to the pendency of the proceedings before a Conciliation Officer. On the day on which the prescribed period expires, if the Conciliation Officer feels that there is every chance of his amicably settling the whole dispute within a short time it is not fair to drive the parties to continue the proceedings before the Civil Court. Moreover we will find that owing to the existence of Clause 28, there is another provision in Clause 30 saying that the period of limitation as well will be extended. So if one of the creditors feels that the whole thing could be settled before the Conciliation Officer within a short period and the Conciliation Officer also hopes to conclude his proceedings within a short period it is only fair that both the debtor as well as the creditor should be given the benefit of the Clauses 28 and 30. That is why I wish to add that the sub-section (2) shall not apply if the Conciliation Officer, for reasons to be recorded in writing, orders that the extension of the prescribed period is necessary. There also it will be observed that I do not give an unlimited period. I extend it only to three months. Even the powers of the Conciliation Officer for extending the period are limited to three months. So I do not think that there will be any difficulty by the acceptance of these amendments. On the other hand, it will only advance the interest of parties who have proceedings before a Conciliation Board. If there is no such provision both the debtors and creditors will be very reluctant to go before a Conciliation Officer for relief, because for no fault of theirs, the Conciliation Officer will not be in a position to dispose of the petition within the prescribed period. With these words I commend the amendment to the acceptance of the House.

MR. K. PADMANABHAN (*Chirayinkil I*): What will be the position—

PRESIDENT: The honourable member has sat down.

MR. R. SIVARAMAN NAIR (*Thiruvalla II*): I second the amendment. An application may be dismissed when the applicant fails to pursue his application with due diligence and when there is fraud. Now the present amendment seems to imply that all applications will be dismissed which have not been disposed of within a prescribed period. We are not sure what will be the prescribed period. It may be three

[Mr. R. Sivaraman Nair.]

months, it may be six months or it may be one year. If that be so, in such cases it may not be due to the want of diligence or due to fraud that the application is dismissed by the Board. By the provisions of the Regulation we know that several notices have to be given to the creditors and debtors as the case may be. In some cases evidence has to be taken, witnesses to be examined and there is a lot of complicated procedure. We know that in the disposal of the application the Board has more to use its discretion rather than the application of any code. As the honourable Law Member remarked, it is quite possible that the Board may take some time. It may take more time than even a Court to dispose of a case. By prescribing a period some of the applications may be dismissed automatically for no fault of the parties. It indirectly gives power to the Board to arbitrarily dispose of some applications. If a Board is of opinion that some applications need not be disposed of, it has only to keep that application without taking any action on it. If a Board does not want to deal with the application of a particular debtor or a creditor it need only keep the application pending till the end of the prescribed period. At the end of that period the application is dismissed automatically. So it gives arbitrary power to the Board.

It may also become necessary by this amendment to dismiss some applications after taking the whole evidence, say on the eve of the prescribed period. If it is two months, under the present amendment, on the 60th day the application automatically goes whether the whole evidence and other materials have already been taken or not. The Board even if it wants cannot keep it pending even a day more, though all the facts necessary for the disposal of the application may be with the Board itself. But the present amendment gives power to the Board to extend the time in such cases when the Board feels that within a little more time the application can be disposed of. So, Sir, I support the amendment moved by Mr. Asan.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Sir, I rise to oppose both the amendments. I am not at all satisfied of the necessity.....

MR. E. V. KRISHNA PILLAI (*Pathanamthitta*): Sir, a point of order. Has the Law Member moved his amendment? Mr. Thanu Pillai said that he is opposing both the amendments. My submission is that the Law Member has not moved his amendment.

PRESIDENT: He has moved. I heard him moving the amendment.

MR. A. THANU PILLAI (*Trivandrum-Rural*): The Conciliation Boards are proposed to be established on the basis that they are good enough at least for a trial. Now if these Boards are expected to form a satisfactory and desirable means of conciliating debts, why not allow the Board the time required to conciliate a particular debt? Now the Law Member has not advanced any reason for his amendment except this that the proceedings before the Board may not be expeditious and thereby the sources of our credit may be dried. That object I understand. But he has also advanced as a reason to establish Boards that the

will form a useful means of conciliating debts. Then I ask why not give them sufficient time for this? Now Sir, let us see how delay is caused in the disposal of conciliation. The delay may be due to the negligence of parties or may be due to other proper and valid reasons. In the latter case I do not see any justification for taking away these cases from the Boards, simply because a particular matter requires more than six months to be disposed of. There may be a large number of creditors and several parties to be consulted, statements must be taken, and all these things may take more than six months or even a year. In that case the Law Member says, at the close of three months, the whole proceedings, should drop. I think it will be quite unwise to adopt this amendment. The Law Member is also not in a position to give us the exact period for the conciliation of a particularly complicated case. He said more time was required only in very exceptional cases. Then I ask is it not just and fair that for such cases a little more time should be allowed? To deal with normal cases we have already made ample provision in Clause 20. The Clause reads thus :

"An application under Section 4 may be dismissed by the Board at any stage of the proceedings—

(a) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence :

Provided that, when such applicant is a creditor, the Board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation ; or

(b) if, for reasons to be stated in writing, the Board considers it not desirable or practicable to effect a conciliation ; or

(c) if the application includes a claim which, in the opinion of the Board, is collusive and intended to defraud any creditor".

To me it appears Sir, everything necessary is provided for in this Clause. If the party is negligent the application goes. If the Board thinks it impracticable the application goes and if the Board thinks that the application is not a *bona fide* one it goes. What more do we want? Why not vest the Board with the discretion of fixing the period according to the merits of each case and why this arbitrary time fixed by the rule. I strongly oppose the amendments put forward by the Law Member and Mr. Asan.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): Sir, I also rise to oppose both the amendments. In principle, I do not find there is much difference between the two amendments. The amendment of the Law Member is, I think, highly objectionable. Firstly, Sir, under Standing Order 46 there is a provision, I might submit, that at the third reading of a Bill, only the Government can bring in an amendment. Therefore one can understand the necessity of Government bringing in amendments at this stage to see that the provisions of the Bill as proposed by Government are restored, when that is deemed absolutely necessary. But my submission is that the Law Member without availing himself of the opportunity during the second reading of the Bill is now putting

[Mr. K. Kunjukrishna Pillai.]

forth his amendment when the Bill is about to be passed into law, thus making a substantial change in the Bill as introduced by him. If the amendments were brought under such exceptional circumstances, with the permission of the Dewan, to restore any provision of the Government Bill I can understand him. But Sir, the Law Member's amendment has never been suggested during the course of the whole discussion during the sittings of the Select Committee. It has not been brought up by him during the second reading. The reasons for this amendment were not given at the Select Committee. To bring in such an amendment during the third reading is to abuse the special powers given under Standing Order 46. I may also be permitted to say that an amendment akin to this was put forward by Mr. Sambasiva Aiyar, but the Chairman did not admit that amendment. Mr. Aiyar had specified six months to dismiss an application. Now, Sir, this House is not made aware of the period. Sir, it is a very serious objection to give Government such rule making powers when it could be avoided. Every body can understand that there must be residuary powers for Government for making rules. What is the difficulty to prescribe the period here and now?

I oppose Mr. Asan's amendment because it accepts the principle of the amendment of the Law Member to prescribe any period that they like, but he asks for only three months more. Now the Government are put in possession of the effect of Mr. Asan's amendment. If Mr. Asan's amendment is carried, there would be the likelihood of the Conciliation Officer asking for an extension of time and Government may fix the period accordingly. The whole effect of the amendment of Mr. Asan is thus nullified. The A. D. R. Committee themselves have recommended that only persons of eminence and character should be entrusted with this delicate and important piece of work. I see no reason why the Government should be invested with such powers. This power will work incalculable hardship to the parties who come for conciliation and would take away the benefit given by these provisions. The Law Member was very eloquent when he said that the Bill would provide relief to every kind of debtor. But if this amendment is carried this object will be frustrated. So this amendment is highly objectionable and harmful to the objects of the Bill. As my honourable friend Mr. Thann Pillai pointed out, every possible facility is given for dismissing an application which is frivolous or collusive or which might cause undue delay. If the Conciliation Officer deems that a particular debtor who has put in an application takes an unduly long time there is provision in the Bill to dismiss his application. Therefore I do not see any reason why there should be any of these amendments. If the Government had fixed a period, a reasonable period—say three years, then I can understand this provision. One fails to understand, the justification or usefulness of these amendments, nor am I able to see any urgency for this amendment. Hence I oppose both the amendments.

MR. S. J. NAIR (*Nedumangad*): I rise to oppose both the amendments. From the arguments advanced by the Law Member at the instance of Government, it appears to me at least that the Government is not willing to render relief to the suffering inhabitants of the State.

Whatever may be the view of the eminent Law Member, so far as this Bill is concerned, it is my humble submission that it would render no substantial help to the suffering inhabitants of the country. As a result of the amendments that are being brought forward, it appears to me that the Government want to deprive the agriculturists even of the little benefit that they would have otherwise obtained. Sir, it seems to me, from the provisions of the Bill, that the member of the Board is to be a Government servant and that he is to be appointed by Government. The Board would also be an one member Board. Such being the case, we find that there are wide powers, and wide scope with the Government to see that proper persons are appointed to work out effectively the conciliation process. In the face of such provisions it passes the comprehension of any wise man to understand why this amendment must be brought forward by the Law Member at this final stage of the Bill, so that the purpose of conciliation might be frustrated. Sir, if delay is caused in the matter of conciliation it would be under three circumstances, *viz.*, either due to negligence on the part of the party or due to the difficulty of summoning ever so many debtors and creditors for conciliation purposes and for the purpose of properly disposing of the conciliation applications due to the inefficiency of the Conciliation Officer. For that purpose it is enough if the Government takes the responsibility of appointing efficient officers for conciliation. There is no use of appointing any person—any Tom, Dick or Harry—as the Conciliation Officer. There must be responsible men, men who feel the responsibility, men who have sympathy, imagination, and men who are experienced in this line of conciliation. Then, I am sure, that this conciliation purpose would not be frustrated, and it would not be delayed. Such being the case, the Government even at this stage, long before the appointment of the Conciliation Board, feel frightened that the conciliation process would be delayed. Sir, if these two amendments are carried, I am sure, the purpose of conciliation would be entirely frustrated and for that reason I oppose both the amendments.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): I rise to oppose both the amendments proposed by the Law Member and by my honourable friend Mr. Asan. I wish to draw the attention of the House to the fact that the duties proposed to be assigned to these officers are hard to be performed in accordance with this Regulation. The Conciliation Officer is not called upon to adjudicate the various claims between the parties like the ordinary judicial officers. The most important work of the Conciliation Officer is the determining or ascertaining the exact amount of liabilities and assets of the debtors who are appearing before the court and in the process of ascertaining all the assets of the debtors one cannot be so sure that it will be finished within the prescribed

[Mr. Pottayal S. Krishna Panickar.]

period of time. Perhaps he will have personally to supervise the valuation of very many properties involving lakhs and lakhs of rupees and at the same time he will have to examine many accounts and documents in order to ascertain the exact amount of the liability of the debtor. All these matters cannot, and could not be hoped to be effectively achieved within a prescribed period of time. Viewing the matter from this stand point, I think it is highly objectionable to fix a period before which every Conciliation Officer should perform all the duties assigned to him. If he fails to perform that and he is called upon to reject the application, then I submit that the time and energy spent upon the application becomes wasted. Moreover, I cannot understand the anxiety of the Law Member to fix a period, as if the Conciliation Board were a non-official court of more than one member. Sir, the Conciliation Officer, according to the present Bill, is to be an officer appointed by Government. The choice of the person lies with Government. He is completely under the control and supervision of the Government. If he is incompetent or if he is neglectful of the duties that are assigned to him, the Government can dispense with the services of the person and appoint a competent man instead. So, viewing this matter from that aspect, the amendment proposed by the Law Member is highly objectionable. Even if a period is prescribed my humble submission is that it is wrong both on principle and on practice.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, I have been listening to the speeches of the honourable members opposing the Law Member. I have sent up an amendment to the amendment proposed by the Law Member, and therefore I have stated.....

PRESIDENT: Are you moving it?

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Yes, Sir I would like to move it.

PRESIDENT: I think it will be convenient if all the amendments of which notice is given are moved and discussed. I therefore allow Mr. Puthupalli Krishna Pillai to move this amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, we have no copies supplied.

PRESIDENT: This is the 11.15 o'clock amendment. I shall read it:

"Delete the words 'prescribed period' in line 4 and substitute the following, *viz.*, period of 12 months from the date of the presentation of the application under Section 4".

The honourable members will notice that I have a reserve power in accordance with the Standing Orders for the conduct of the business to admit late amendments. I have relaxed the rule in this respect because the matter is important. But I find now that about 5 minutes ago some other amendment has been put in, I do not propose to allow any other amendments to be moved. This would be the last, Mr. Puthupalli Krishna Pillai.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, I beg to move the amendment just read out. And I may be permitted to explain the implication contained in it. It does not introduce any vast change. It merely prescribes or enables this House to prescribe the rules. If this House is in a position to come to an agreement on the period that might be fixed, this House would feel convinced that it has considered the decision. Personally, I think that this matter of prescription, as far as possible, will not be left to the discretion of the Government. I think it might be safer to consider the question here, rather than leave it to Government to consider when the rules are framed. Sir, what the learned Law Member said, is no doubt correct. Under Clause 28, whenever an application is presented to the court in proper form and the court entertains the application, it operates automatically as a stay of all proceedings against the applicant in the Civil Courts. In the discussion and acceptance of Clause 28 we agreed upon the principle that there shall not be simultaneous proceedings in two courts relating to one matter. It embarrasses the debtor and prevents amicable settlement. At the same time it is necessary that debtors should not get the liberty to postpone civil proceedings indefinitely.

Now, we are giving concessions and facilities to both creditors and debtors and it is in the interests of both parties that they expedite their business, settle their debts and enable the court to come to a decision. At any rate, when one party creates obstructions, it must be made obligatory on the part of the Board to come to a decision forthwith. If it does not do this, it shall not be the fault of the Legislature. Now, Sir, our experience in courts of law would certainly embolden us to make the statement that all sorts of dilatory methods are being adopted by the clients for the purpose of gaining time. We are often made victims of the practice and are led on to participate in such practice. In some cases, Sir, the courts themselves take advantage of this method of the litigants. They themselves feel the anxiety for granting adjournments. Sometimes, when they are otherwise inclined they change their opinion after hearing the Vakils and then grant adjournment. Similarly, or under such circumstances, cases are liable to be postponed without any definiteness and if that were so, it will certainly affect the creditor interests and also the credit of the country. We can very well see that if by presentation of the petition before the Board, you could get an automatic stay of the proceedings in regard to the debt, a debtor who wants only the postponement of payments of the debt due from him can very well achieve his object by concentrating his attention on the Board. This will certainly embarrass the creditors. It is therefore necessary that a time limit should be fixed within which the Board, if it does not pass final orders, should become *functus officio*. Such a provision will induce the debtor to be keen and watchful in the progress of the matter. It will cast a duty on the Board to be expeditious in the disposal. The combined influence of both would bring about a fruitful mentality in the creditor. It has been pointed out by the member for Nedumangad that the Government do not appear to show as much sympathy in this matter as they seem to express. I am

[Mr. Puthupalli S. Krishna Pillai.]

certainly not in a position to agree with that. I distinctly remember the Law Member's speech on Clause 3 of the Bill when the amendment was moved at the second reading. He said that Government do not hope to give us more than one or two Boards. When he opened his speech yesterday, he started with 5 or 6, and ultimately went up to 10. That is how he has been progressing. That indicates the attitude of the Government now. And to day, the amendment has been carried by an over-whelming majority. I may point out that this Bill is not intended for the convenience of the debtors; it is intended for the amelioration of their condition. The debtors must get the maximum benefit out of this measure while causing minimum disadvantage to the creditors. It is for that that I propose the time limit within which the Boards should dispose of applications filed before them.

Sir, there is nothing novel in this amendment. It has been discussed at great length in other Legislatures. In the Madras Act XI of 1936, in Section 17 we find a provision similar to the one that I now propose, although it is slightly different. There, a period of 12 months has been prescribed for this purpose. Certainly there must have been very good reasons for the Madras Legislature coming to that conclusion. Therefore I contend that a time limit must be fixed here also.

But, if the Law Member would assure us that the Government would fix any period more than 12 months, I am prepared to leave it to the Government to fix such period.

In reply to Mr. S. J. Nair, the Law Member said that, under this Bill the pecuniary jurisdiction of the Boards is unlimited and that it may extend from one cash to Rs. 100 lakhs. I wish to draw the attention of the Law Member to Clause 3 which we have already passed in which it is stated that the pecuniary jurisdiction of the Boards shall be fixed by the Government. It does not say that any amount, from one cash to a hundred lakhs of rupees, may be conciliated by the Boards. It is open to the Government to limit the pecuniary jurisdiction of the Boards.

Now, are we to leave this matter also in the hands of Government? They may conveniently or inconveniently forget it. Why not we also, as they have done in Madras, fix a period of 12 months. My humble submission is that it is better to fix a time limit; and, if the Law Member would give us the assurance that the period that he would fix would be more than 12 months, I am quite prepared to leave the period to be fixed by the Government.

With these words, I support the Law Member's motion with the amendment that I have made to it.

MR. K. M. KURIAKOSE (*Muvattupuzha II*): I oppose all the amendments.

The only argument advanced by Mr. Puthupalli S. Krishna Pillai in support of his amendment is that if a debtor takes it into his head to evade the proceedings before the Conciliation Officer and prolong the

period of disposal it is very easy for him to do it. Of course he bases his argument on his experience with his clients. Now, Sir, is it not open to the creditor also, if he takes it into his head to do likewise? He also can prolong the proceedings before the Board merely to see that under the provision now proposed by Mr. Krishna Pillai the application before the Board is deemed to have been disposed of and the matter is taken up by the Courts of Law. Therefore, that is no argument. I am not for fixing any definite period for this purpose.

There are ample provisions in Section 20 to deal with such of the debtors and creditors as are not sincere in their application to the Conciliation Boards. There is no necessity to fix any period. Further, any such provision, fixing a period, would be inconsistent with the spirit of conciliation as it was explained by the Law Member himself. The idea is that there should be the spirit of friendship, of give and take, of compromise. If Mr. Krishna Pillai was able to convince the House that twelve months' period was sufficient to dispose of any case, I could have understood him. Having failed in that, I do not find any reason to support him. I therefore oppose all these amendments. What is necessary is that arrangements should be made to see that the Boards dispose of these applications in as short a time as possible.

MR. T. P. VELAYUDHAN PILLAI (*Tirunalla II*): I am not in complete agreement with the amendment moved by the Law Member. My position is this. If that amendment is accepted at all it should be made subject to the conditions contained in the amendment proposed by Mr. Asan.

Clause 16 of the Bill prescribes one of the methods of disposal of these applications before the Boards. That Clause says—

"If the debtor and the creditor or the creditors appearing before the Board agree to the conciliation proposed by the Board, it shall be reduced to writing in the form of an agreement and shall be signed by the debtor and the creditor or creditors and shall also be signed or otherwise authenticated by the Board.";

Two conditions are necessary; the parties must express their consent, and an agreement should be prepared and signed by them as well as by the Conciliation Officer. In some cases, the parties might have consented; but the prescribed time might expire before the preparation of the agreement and execution of it. I am of opinion that it is only fair, under such special circumstances, to authorise the Conciliation Officer to extend the time and to record in writing his reasons for so extending the time. If necessary, it may be prescribed that in no case shall an extension be granted for more than three months.

With these conditions, I support Mr. Asan's amendment to the Law Member's amendment.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I oppose the original amendment moved by the learned Law Member as well as the various amendments to that amendment, the by-products as it were, of the original amendment. This amendment involves a very important principle. It has been fully discussed in the Select Committee as well as in this House during the second reading. Clause 20 is the result of such anxious consideration on the part of this House. Sub-clauses (a),

[Pacode A. Narayana Pillai]

(b) and (c) of Clause 20 lay down the various reasons for which an application can be dismissed by the Board. Those reasons are comprehensive enough even to serve the object of the Law Member's present amendment. I would particularly refer to sub-clause (b) which vests the Board with sufficient power to deal with cases where it is not practicable or desirable to proceed with conciliation proceedings.

Secondly, Sir, this method of legislation by means of executive orders, especially on important matters like conciliation proceedings, is reprehensible on principle and must be condemned. It is not fair on the part of the Law Member, at this stage, to smuggle into the Bill a provision which was considered and thrown out at an earlier stage.

Lastly, Sir, in moving this amendment, the Law Member is out for mischief. It will be seen that the term he used in the amendment is 'prescribed'.

PRESIDENT : I take it that the honourable member uses the term 'mischief' in the parliamentary sense.

MR. PACODE A. NARAYANA PILLAI (Vilavankod) : Of course I am using the term 'mischief' in the parliamentary sense.

Sir, the term 'prescribed' is used in the amendment and Clause 2 sub-clause (g) defines 'prescribed' as prescribed by rules. And the Clause which empowers the Government to pass rules relating to conciliation is Clause 32. It will be seen that in Clause 32 there is no specific provision enabling Government to pass rules prescribing a period. That is a very important matter. My submission is that it will be *ultra vires* of the Government, when Clause 15 makes provision for laying down the reasons for the dismissal of an application, to dismiss an application because the period has lapsed. When such rules are passed they will be met by this plea of *ultra vires* and there will be a lot of mischief and trouble in the interpretation of the various Sections.

Lastly, Sir, I would submit that this is a case of vicarious punishment. I can understand parties being punished for their laches. But here for the laches of the officers, parties are sought to be punished. We have heard of legislation in other places in which fathers are being punished for the sins of commission or omission of their sons.

PRESIDENT : The honourable member should not make reflections on other legislatures.

MR. PACODE A. NARAYANA PILLAI (Vilavancode) : Not in the least. I am saying this only by way of analogy. Under Section 15, the proceedings before the Board are judicial proceedings. The Board can take evidence. It is invested with sufficient powers as a Civil Court. So this will be something like a sword of Damocles hanging over the head of the Conciliation Officer. If the Conciliation Officer fails to dispose of the application within a particular time why should the poor debtor be punished? In my humble opinion that is a very mischievous provision—again I use the word 'mischievous' in a parliamentary sense. So I oppose the amendment of the Law Member and the other consequential amendments.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I may say at once that I am prepared to accept the latter portion of Mr. Asan's amendment which reads as follows:—

"Provided that this sub-section shall not apply for a period of three months after the prescribed date where the Conciliation Officer, for reasons to be recorded in writing, orders that an extension of the prescribed period is necessary in the general interests of the parties before him."

I cannot accept the first portion of the amendment which requires the insertion of the words "for purposes of Clause 28". I am also opposing all the other amendments.

Sir, it does not require much argument to show that the conciliation proceedings should be expeditious. For one thing, the Civil Court proceedings cannot be allowed to be kept stayed indefinitely as would be the result if conciliation proceedings go on indefinitely. There is another important reason also why the conciliation proceedings must end soon. The amicable settlement which conciliation is, must be arrived at in the very nature of things as early as possible. If that settlement is not arrived at, the Conciliation Board proceedings will be but a replica of the Civil Court proceedings. Conciliation *must be expeditious*. That is a principle which must be borne in mind.

MR. K. C. ABRAHAM (*Kottayam II*): Is there anything in principle that the proceedings in Courts should not be expeditious?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, nothing at all.

Sir, I said at the outset that one reason why I brought in my amendment was that Government might establish more Boards than one or two which was all that they intended originally. Mr. Puthupalli Krishna Pillai says that in this, Government yielded to the House. Yes, that is so. I claim it as a privilege to yield to the views of this House; and of course the House will also share the responsibility for the action taken accordingly. I do not certainly go back upon what I said that the number of Boards would be increased. But if the number of Boards is increased, the House must give discretion to the Government to prescribe a particular period within which each Board should dispose of the conciliation applications. It may not be possible for this House itself to lay down the period specifically; that must be left to be prescribed by Government.

MR. K. KUNJUKRISHNA PILLAI (*Quilon I*): May I know from the member whether the number of Boards will determine the period of time.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes to some extent. That is why I say that this House may not be able to specify a time.

MR. P. C. KURIYAN (*Kottayam I*): May I ask the member to let me know what provision there is for cases in which some delay is necessary?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is perhaps covered by Mr. Asan's amendment and I accepted it. I am not suggesting that the applications for conciliation should be disposed of summarily. If there is a reasonable chance of any agreement being arrived at it will be better by all means. But the Board should not feel that they can keep the application pending indefinitely. For statistical purposes too, a time limit may be useful.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): May I know from the Law Member what according to him is the maximum period that could be granted from the date of the first hearing?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I cannot say it without deciding on the details of procedure. But on first impressions I may say that six months from the date of the first hearing should ordinarily be enough. I entirely agree with Mr. Krishna Pillai that the applications should be disposed of expeditiously.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I want to know from the member whether he thinks that proceedings should be dropped in cases where all parties agree that the prescribed time limit may be exceeded.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I am glad of the suggestion contained in that question. That suggestion will be borne in mind when the rules are made.

I trust that the House will accept my amendment as amended by the latter part of Mr. Asan's amendment.

PRESIDENT: The amendment moved by the Law Member is as follows:—

In Clause 20 number the existing Clause as sub-clause (1) and add the following as sub-clause (2), namely:—

"(2) Notwithstanding anything in sub-section (1), the application shall be deemed to have been dismissed if within the prescribed period the application has not been disposed of by the Board."

I propose to put the amendment to Clause 20 one by one to vote. First is Mr. Asan's amendment.

It reads as follows:—

In line 4 between the words "dismissed" and "if" insert the words "for purposes of Clause 28" and add at the close as a separate paragraph:

"Provided that this sub-section shall not apply for a period of three months after the prescribed date where the Conciliation Officer, for reasons to be recorded in writing, orders that an extension of the prescribed period is necessary in the general interests of the parties before him."

MR. A. S. DAMODARAN ASAN (*Marthikara*): I do not press the first part in view of the fact that the second part of it has been accepted by the Law Member.

PRESIDENT: Has Mr. Asan the leave of the House to withdraw the first part of the amendment?

The first part of the amendment was, by leave of the House, withdrawn.

The next is Mr. Puthapalli Krishna Pillai's amendment. It reads thus:—

"In line 4, delete the words "prescribed period" and substitute "period of twelve months from the date of the presentation of the application under Section 4".

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In view of what the Law Member has stated I do not press it.

The amendment was, by leave of the House, withdrawn.

PRESIDENT : Next I will put the amendment of the Law Member with the proviso, which was the second part of Mr. Asan's amendment. It reads as follows :

"Notwithstanding anything in sub section (1), the application shall be deemed to have been dismissed if within the prescribed period the application has not been disposed of by the Board :

Provided that this sub-section shall not apply for a period of three months after the prescribed date where the Conciliation Officer, for reasons to be recorded in writing, orders that an extension of the prescribed period is necessary in the general interests of the parties before him."

The amendment, with Mr. Asan's amendment, was put to vote and carried.

Clause 28.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to move: that for clause 28 the following shall be substituted namely:

"For the prescribed period from the date of the presentation of an application under Section 4, no Court shall, except for special reasons to be recorded in writing, entertain, or allow to be prosecuted, any suit, application for the execution of a decree or other proceedings, for the recovery of any debt covered by the application."

This amendment is more or less connected with the amendment to Clause 20 that has been accepted just now by the House. A question may legitimately be asked why this amendment is considered necessary. It may perhaps be argued that if an application is to be deemed to be dismissed if not disposed of within a particular period, there is no purpose in the present amendment. That is true to some extent. But a view may be taken that even though proceedings before the Board may continue or be allowed to continue for any length of time it may not be necessary to stay the proceedings of the Civil Court during all that time. The Board may go on with conciliation proceedings and come to a settlement if possible and at the same time the Civil Court proceedings also may go on. Such a view may be taken. Therefore I think it is better that Government is given a discretion in this matter. They will lay down a rule within which an application should be disposed of. They might also lay down another rule to limit the period during which alone the Civil Court proceedings may stand stayed for the reason of the conciliation proceedings.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): In view of the amendment accepted by the House is it necessary to enact a further amendment of the kind?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Perhaps not. A view may possibly be taken that an application before the Board may be kept alive for a longer period than that during which the Civil Court proceedings may be stayed. Therefore

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Government may be given power to make rules in the matter, so that one period may be fixed for the stay of the Court proceedings and another for the disposal of the conciliation application by the Board.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Is it the view of the Law Member that simultaneous proceedings can go on?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Is it the idea of the Law Member to prescribe another period under Section 28?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

RAO SAHIB MAHA KAVI S. PARAMESVARA AIYAR (*Nominated*): Has the Law Member taken into consideration the hardship that the parties will have to undergo such as expenses, etc. before two tribunals?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. Normally the proper course will be to allow proceedings only in one place at a time. As I said, it may perhaps be necessary to make a rule that, though one period is prescribed for the proceedings before the Board, another period will be allowed for the stay of the Court proceedings. In that view, may not a power to fix different periods be safely be given to Government? I leave it to the House. I am not very particular.

MR. K. C. ABRAHAM (*Kottayam II*): Am I right in understanding that when in respect of a debt covered by the application of one creditor the affairs of the debtor are before the Board for conciliation proceedings against that debtor, a suit by other creditors may go on indefinitely in a court?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, not indefinitely.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second the amendment.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, I oppose the amendment.

PRESIDENT: Is there any amendment to the proposed amendment of the Law Member.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): No, Sir.

Under Section 20 a period is prescribed for the pendency of the application before the Board. That is to say, after the prescribed period the application will be deemed to have been dismissed. By the present proviso the Law Member wants to prescribe another period for the suspension of proceedings before the Civil Court. Such a period prescribed may be either longer or shorter.

MR. E. V. KRISHNA PILLAI (*Pattanamtitta*): How can that be?

MR. A. S. DAMODARAN ASAN (*Mavelikara*): The point is this. I am suggesting that, if it is a longer period, there is no meaning in it. If it is a shorter period then during the interval between the termination of the two periods, proceedings will be conducted before the Conciliation Officer as well as the Civil Court simultaneously. When my

previous amendment was moved the main objection voiced here was that it will not be proper to have the proceedings with regard to the same subject matter conducted by two tribunals. My argument that there is not much difficulty in permitting the same did not appeal very much to the House, because I did not hear many persons supporting me. Now the Law Member wants the same thing to be brought into existence by means of another amendment. Anyhow, the wisdom of prescribing another period and complicating matters still further is not clear to me. I would say that there is absolutely no necessity for this amendment and that Clause 28 as it stands now sufficiently safeguards the interests of the parties.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Quilon II*): Sir, I would like to speak one word by way of opposition to the amendment of the Law Member. In the third reading stage, amendments are moved only when absolutely necessary. There is no use in moving amendments in anticipation of embarrassments or by way of abundant caution. It is very clearly stated in the Clause that the proceedings will be stayed only for the settlement of the application that is pending before the Board. It is only till settlement that those proceedings are to be stayed. That point is made clear in the Clause itself. How long can an application be pending before Boards. I suggested the period as 12 months and the Law Member proposed 6 months. So then, we have now fixed a period and that is the only period within which an application can be kept pending. It is only up to that period stay of the proceedings could be made. What is the fun of raising a stay when proceedings are going on and why should Civil Court proceedings be stayed after the application stands dismissed by efflux of time? The Clause that has just been passed serves the purpose in issue. No superfluous provision is necessary. We want to have the proceedings stayed only if the petition is pending. If the petition stands dismissed, the stay must automatically cease. Until it ceases no Government order shall interfere with the necessary right of stay. I therefore oppose the amendment.

The amendment was put to vote and lost.

The House adjourned at 1-30 P. M. to meet again the next day at 11 A. M.

P. PARAMESVARAN PILLAI,
Secretary to the Sri Mulam Assembly.